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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,169	03/08/2001	Christopher Keith	IVEN125473	1150
52531	7590	01/27/2006	EXAMINER	
CHRISTENSEN O'CONNOR JOHNSON KINDNESS PLLC			GRAHAM, CLEMENT B	
1420 FIFTH AVENUE			ART UNIT	
SUITE 2800			PAPER NUMBER	
SEATTLE, WA 98101-2347			3628	

DATE MAILED: 01/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,169

Applicant(s)

KEITH, CHRISTOPHER

Examiner

Clement B. Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 29 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-31 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/17/2001.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-31 remained pending.
2. In view of the Appeal Brief filed on 11/02/05, PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Claim Rejections - 35 USC § 112

3. The term "crowd" in claims 3-5, is a relative term which renders the claim indefinite. The term "crowd" is not defined by the claims, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention ...". For further examination, the examiner interprets the limitation in light of this 112, second rejection.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-30, are rejected under 35 U.S.C. 102(e) as being anticipated by Hambrecht et al (Hereinafter Hambrecht U.S Patent No. 6, 629, 082).

As per claim 1, Hambrecht discloses a method of facilitating trading, comprising: automatically via a computer providing a price inquiry to a market process having an order file, the market process also having a crowd of trading process registered therewith and automatically via a computer requesting that the market process notify its crowd of a price improvement opportunity.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 2, Hambrecht discloses further comprising trading at a price provided by the Crowd. .(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 3, Hambrecht discloses wherein the automatically providing and requesting are performed by a trading process. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 4, Hambrecht discloses a method of providing a crowd price, comprising:
automatically via a computer receiving notice at a trading process registered(i. e, "member dealers") as being a crowd of market process of an opportunity to improve upon a book price, automatically via a computer or other computer determining whether to improve upon the book price, and automatically via a computer or another computer providing the crowd price that improves the book price when the determination is positive.(Note abstract and see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 5, Hambrecht discloses wherein the determining is in accordance with an order processing methodology.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 6, Hambrecht discloses wherein the order processing methodology is represented in a decision table.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 7 Hambrecht discloses wherein the determining includes requesting an instruction from a user. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

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As per claim 8, Hambrecht discloses further comprising automatically registering as part of a crowd to receive the price improvement opportunity notice. (see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 9, Hambrecht discloses wherein the automatically registering occurs with a market process.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 10, Hambrecht discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 11, Hambrecht discloses a method of providing a crowd price, comprising: automatically via a computer receiving notice at a trading process registered as being the crowd of market process of a proposed pairing price, automatically via a computer or another computer determining whether to improve upon the proposed pairing price, and automatically via a computer or another computer providing a crowd price that improves the proposed pairing price when the determination is positive.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 12, Hambrecht discloses wherein the determining is in accordance with an order processing methodology.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 13, Hambrecht discloses wherein the order processing methodology is represented in a decision table.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 14, Hambrecht discloses wherein the determining includes requesting an instruction from a user.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 15, Hambrecht discloses further comprising automatically registering as part of a crowd to receive the proposed pairing price notice.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 16, Hambrecht discloses wherein the automatically registering occurs with a market process.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 17, Hambrecht discloses wherein the automatically receiving notice, determining and providing a crowd price are performed by a trading process.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 18, Hambrecht discloses a method of providing price discovery, comprising:

automatically via a computer notifying a crowd of trading process registered with a market process of an opportunity to improve upon a book price, automatically via a computer or another computer receiving a crowd price from the crowd, and automatically via a computer or another computer providing the crowd price as a response when the crowd price is better than the book price.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 19, Hambrecht discloses wherein the automatically providing occurs in response to a price inquiry according to a published delay time. (Note abstract and see column 3 lines 50-65 and column 4 lines 5-40).

As per claim 20, Hambrecht discloses wherein when the crowd price is provided as a response, a pairing must occur.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 21, Hambrecht discloses comprising receiving a price inquiry specifying that the response to the price inquiry should occur after automatically notifying the crowd of the price improvement opportunity.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 22, Hambrecht discloses wherein the automatically notifying, receiving and providing are performed by a market process .(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 23, Hambrecht discloses wherein the crowd comprises registered trading processes.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 24, Hambrecht discloses a comprising: automatically via a computer notifying a crowd of trading process registered with a market process of a proposed pairing price, automatically via a computer or another computer receiving a crowd price from a crowd and automatically via a computer or other computer pairing with the crowd price when the crowd price is better than the proposed pairing price.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 25, Hambrecht discloses wherein the automatically pairing occurs according to a published delay time.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 26, Hambrecht discloses wherein the published delay time is less than one second.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 27, Hambrecht discloses wherein the published delay time is greater than one second.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 28, Hambrecht discloses further comprising determining that a next pairing will be at the proposed pairing price different than a previous pairing price.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 29, Hambrecht discloses wherein the proposed pairing price is the best price from a file of stored orders.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

As per claim 30, Hambrecht discloses wherein the automatically notifying, receiving and pairing are performed by a market process.(see column 11 lines 35-67 and column 12 lines 1-65 and column 13 lines 1-14).

Response to Arguments

6. Applicant's arguments files on 4/29/05 have been fully considered but they are moot in view of new grounds of rejections.

Any inquiry concerning this communication from the examiner should be directed to Clement Graham at (703) 305-1874. The examiner can normally be reached on Monday, Tuesday, and Wednesday from 5:30AM. to 6:00PM.

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7. If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Sam Hyung can be reached on (703) 305-0505.

The Official Fax Number for TC-3600 is: (703) 305-7687

Clement Graham

Patent Examiner

January 21, 2006


FRANTZY POINVIL
PRIMARY EXAMINER
AK 3628